THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos: 25531 & 25532 of 2002

W.P.No.25531 of 2002

Between:

1 Sawnly Primary Agricultural Co-operative Society,

Sawnly, Kubeer Mandal,Adilabad district, rep. by its

Secretary K.Venkat Swamy S/o. Doddanna agee 48 yrs,

r/o. Sawnly, Adilabad District.
2 Adilabad DCCB, Bhainsa Branch, rep. by its Manager

P.Sesha Rao. S/o.Ganapathi Rao r/o. Bhainsa, Adilabad

District.

..... PETITIONERS

AND

1 Land Acquisition Officer/Revenue Divisional Officer,

Nirmal, Adilabad District.
2 State Bank of Hyderabad, Bhainsa Branch, Mahatma

Gandhi Gunj, Market Yards, Bhainsa, Adilabad Dist.
3 Madul Sing s/o. Ramsing
r/o. Kubeer Mandal, Adilabad District.
4 Vitabai S/o. Ganganna
r/o. Kubeer Mandal, Adilabad District.
5 Tulsidas s/o. Thukaram
r/o. Kubeer Mandal, Adilabad District.
6 Balajee s/o. Gangaramsingh
r/o. Kubeer Mandal, Adilabad District.
7 Chinanaga Rao s/o. Pothaje

r/o. Kubeer Mandal, Adilabad District.

8 Sayanna S/o. Lalu
r/o. Kubeer Mandal, Adilabad District.

9 Gangadar s/o. Sambaje
r/o. Kubeer Mandal, Adilabad District.

10 Sayabu s/o. Ganga
r/o. Kubeer Mandal, Adilabad District.

11 Bhojanna s/o. Yellanna
r/o. Kubeer Mandal, Adilabad District.

12 Peddanag Rao S/o. Pothaje
r/o. Kubeer Mandal, Adilabad District.

13 Yellappa S/o. Ganganna
r/o. Kubeer Mandal, Adilabad District.

14 Bhojanna s/o. Nag Rao
r/o. Kubeer Mandal, Adilabad District.

15 Shanker s/o. Jamuna
r/o. Kubeer Mandal, Adilabad District.

16 Ganga s/o. Dondiba
r/o. Kubeer Mandal, Adilabad District.

17 Abaje s/o. Pothaje
r/o. Kubeer Mandal, Adilabad District.

18 Ananda s/o. Shettappa
r/o. Kubeer Mandal, Adilabad District.

19 Kamlaker s/o. Narsimhulu
r/o. Kubeer Mandal, Adilabad District.

20 Poshetty S/o. Yellanna
r/o. Kubeer Mandal, Adilabad District.

21 Bhoja Ram s/o. Lingaram
r/o. Kubeer Mandal, Adilabad District.

22 Ramulu S/o. Poshetty
r/o. Kubeer Mandal, Adilabad District.

23 Nageswar s/o. Kasinath
r/o. Kubeer Mandal, Adilabad District.

24 Narasimha s/o. Kasinath
r/o. Kubeer Mandal, Adilabad District.

25 Sri Ramulu S/o. Ganganna
r/o. Kubeer Mandal, Adilabad District.

26 Bhojanna s/o. Narsimha
r/o. Kubeer Mandal, Adilabad District.

27 Maik s/o. Narasimha
r/o. Kubeer Mandal, Adilabad District.

28 Chinanna s/o. Laxmanna
r/o. Kubeer Mandal, Adilabad District.

29 Pothanna s/o. Laxmanna
r/o. Kubeer Mandal, Adilabad District.

30 Ganga Ram s/o. Poshetty
r/o. Kubeer Mandal, Adilabad District.

31 Bakkama W/o. Pothaje
r/o. Kubeer Mandal, Adilabad District.

32 Kaja Miya s/o. Abdul Karim
r/o. Kubeer Mandal, Adilabad District.

33 Gangadhar S/o. Somanna

r/o. Kubeer Mandal, Adilabad District.
34 Ganganna s/o. Bakanna
r/o. Kubeer Mandal, Adilabad District.
35 Sayanna s/o. Bakkanna
r/o. Kubeer Mandal, Adilabad District.
36 Devamma W/o. Chinanna
r/o. Kubeer Mandal, Adilabad District.
37 Narsing s/o. Peroje
r/o. Kubeer Mandal, Adilabad District.
38 Maruthi s/o. Ganganna
r/o. Kubeer Mandal, Adilabad District.
39 Shankarappa s/o. Gangaram
r/o. Kubeer Mandal, Adilabad District.
40 Gopat Rao s/o. Nag Rao
r/o. Kubeer Mandal, Adilabad District.
41 Darma Bai W/o. Pothaje
r/o. Kubeer Mandal, Adilabad District.
42 Venkateswar s/o. Donduparth
r/o. Kubeer Mandal, Adilabad District.
43 Ramakanth s/o. Donduparth
r/o. Kubeer Mandal, Adilabad District.
44 Nagnath s/o. Donduparth
r/o. Kubeer Mandal, Adilabad District.
45 Ganpathi Rao s/o. Maruthi Rao
r/o. Kubeer Mandal, Adilabad District.
46 Devamma W/o. Ganganna
r/o. Kubeer Mandal, Adilabad District.
47 Satyanarayana s/o. Gangaram
r/o. Kubeer Mandal, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of "Mandamus" declaring the action of the 1st respondent in not referring the case in his proceedings No.B6/3554/2001 under Section 30 of Land Acquisition Act and in seeking to make payments to respondents 3 to 47 in respect of their lands acquired for Suddavagu Project, Bhainsa, Adilabad District as being illegal, arbitrary and unconstitutional and violative of the procedures under the Land Acquisition Act, 1894 and consequently direct the 1st respondent to refer the matter to the jurisdiction of the Civil Court under Section 30 & 31 of the Land Acquisition Act, 1894.

WRIT PETITION NO : 25532 of 2002

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Between:

1 Mirzapur Primary Agricultural Co-operative Society,

Mirzapur, Bhainsa Mandal, Adilabad district, rep. by its

Secretary Narasimhulu, S/o. Shivanna r/o. Bhainsa,

Adilabad District.
2 Adilabad DCCB, Bhainsa Branch, rep. By its Manager

P.Sesha Rao. S/o.Ganapathi Rao r/o. Bhainsa, Adilabad

District.

….. PETITIONERS

AND

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1. Land Acquisition Officer/Revenue Divisional Officer, Nirmal, Adilabad District.
2. State Bank of Hyderabad, Bhainsa Branch, Mahatma Gandhi Gunj, Market Yards, Bhainsa, Adilabad District.
3. Shanker S/o. Tulsiram
4. Gangadhar S/o. Sadashiv
5. Narayana S/o. Vishwanath
6. Balajee S/o. Ganpathi
7. Lingram S/o. Ganpathi
8. Gangadhar S/o. Chinnanna
9. Rameshwar S/o. Tulsiram.
10. Digamber S/o. Kishan Rao
11. Girijabai W/o. Ram Rao
12. Madhava Rao S/o. Ram Rao
13. Govind Rao S/o. Babu
14. Bhojanna S/o.Poshetty
15. Narayan S/o. Sayanna
16. Naganath S/o. Sayanna
17. Rajappa S/o. Ganpathi
18. Ramdass S/o. Sayanna
19. Ganga Bai w/o. Gangaram
20. Pundalik S/o. Gangaram
21. Narayan S/o. Gangaram
22. Vitthal S/o.Gangaram

23. Fakeer Mohd S/o. Nawab Sab
24. Immam Sab S/o. Nawab Sab
25. Manik S/o. Bapu Rao
26. Lal Mohammed S/o. Gulab Sab
27. Shaik Ahmed S/o. Nawab Sab
28. Gangiah S/o. Peeraiah
29. G. Rajanna S/o. Babanna
30. Shesabai W/o. Laxman
31. Madhav S/o. Lachaiah
32. Gangadhar S/o. Marribba
33. Madhav S/o. Marriba
34. Gangaram S/o. Adellu
35. Pothajee S/o. Adellu
36. Ramulu S/o. Adellu
37. Mahboob Sab S/o. Nawab Sab
38. Gangia S/o. Dunria
39. Suresh S/o. Marrya
40. Vittiya S/o. Gangai
41. Hussain S/o. Moulana
42. Laxman S/o. Dunria
43. Erwantha S/o. Peerajee
44. Sampath S/o. Shanker
45. Babu S/o. Shanker
46. Narayan S/o. Bapu Rao
47. Muthanna S/o. Bhumanna
48. Gangadhar S/o. Bhumanna
49. Pochabai W/o. Sambia
50. Mahboob Miya S/o. Hajimiya
51. Amritha S/o. Gangaiah
52. Pundalik S/o. Laxis

53. Haji Sab S/o. Nawab Sab
54. Amria S/o. Bhuma
55. Ambai W/o. Duganbar
56. Jalba S/o. Peerajee
57. Sainath S/o. Shanker
58. Jamal S/o. Moulana
59. Amria S/o. Moulana
60. Vishwanath S/o. Gangia
61. Mahadia S/o. Gangia
62. Mallamma W/o. Laxman
63. Babu S/o. Mallanna
64. Pandurang S/o. Ramchander
65. Kalojee S/o. Ramchander
66. Gangaiah S/o. Santaiah
67. Ganga Bai W/o. Bhojanna
68. Shyam Rao S/o. Govind Rao
69. Anand Rao S/o. Govind Rao
70. Krishan Rao S/o. Govind Rao
71. Chandra Bai W/o. Dev Rao
72. Vitthoba W/o. Hanmanthu
73. Shivajee S/o. Vitthal
74. Gangia s/o. Ambia
75. Shakuntala Bai W/o. Ganpathi
76. Dattaram S/o. Mohanajee
77. Digamber S/o. Madhav Rao
78. Madhav Rao S/o. Shyam Rao
79. Sainath S/o. Ganpathi Rao
80. Gangaram S/o. Vitthoba
81. Prakash S/o. Pundalik
82. Gangadhar S/o. Vitthal

83. Vitthoba S/o. Danojee
84. Adella S/o. Bojaram
85. Malik Ahmed s/o. Dow Sab
86. Dattaram S/o. Laxman
87. Pundalik S.o. Vitthal
88. Savitribai W/o. Vitthal
89. Dattatrey S/o. Vitthal
90. Vijay Kumar S/o. Vithal
91. Raju S/o. Kiasiram
92. Mahender S/o. Kasiram
93. Bhan Singh S/o. Mohanlal
94. Azeez Ahmed S/o. Ahmed Hussain
95. Shanker lal S/o.Mohanlal
96. Rajeshwar S/o. Vithal
97. Ali Khan S/o. Hussain Khan
98. Jamuna Bai W/o. Madanlal
99. Digamber Dev S/o. Venkatesh Dev
100. Dropathi Bai W/o. Maruthi
101. Govind Rao S/o. Krishnajee
102. Gangaram S/o. Gangaram
103. Babu S/o. Bapu Rao
104. Tukaram S/o. Ganpathi
105. Yamuna Bai W/o. Kishan Rao
106. Maruthi S/o. Parbanna
107. Gangaram S/o. Gopal
108. Peerajee S/o. Hanumanth Rao
109. Dattaram S/o. Bapu Rao
110. Naga S/o. Mahadia
111. Sainath S/o. Babu Rao
112. Hanmanth Rao S/o. Peerahjee

113. Sainath S/o. Pshetty

114. Kishan S/o. Poshetty

115. Babu Rao S/o. Amrutha

116. Maisa S/o. Gangaiah

117. Jamal Saab S/o. Nattad

(respondents 3 to 117 are R/o. Mirzapur Bhainsa Mandal, Adilabad District.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of "Mandamus" declaring the action of the 1st respondent in not referring the case in his proceedings No.B6/3554/2001 under Section 30 of Land Acquisition Act and in seeking to make payments to respondents 3 to 117 in respect of their lands acquired for Suddavagu Project, Bhainsa, Adilabad District as being illegal, arbitrary and unconstitutional and violative of the procedures under the Land Acquisition Act, 1894 and consequently direct the 1st respondent to refer the matter to the jurisdiction of the Civil Court under Section 30 & 31 of the Land Acquisition Act, 1894.

Counsel for the Petitioners: MR.S.NIRANJAN REDDY

(in both the writ petitions)

Counsel for Respondent Nos.1&2: GP FOR LAND ACQUISITION

(in both the writ petitions)

The Court made the following COMMON ORDER:

The Government of Andhra Pradesh proposed to acquire huge extent of land for Suddavagu Project, Bhainsa Mandal, Adilabad District. The land to be acquired includes the land owned by respondents 3 to 47 in W.P.No.25531 of 2002 filed by the Sawnly Primary Agricultural Cooperative Society (SPACS), and Adilabad District Cooperative Central Bank (DCDB) and the land owned by respondent 3 to 117 in W.P.No.25532 of 2002 filed by Mirzapur Primary Agricultural Cooperative Society (MPACS), and Adilabad DCCB. Both the PACSs along with Adilabad DCCB filed these two writ petitions praying for a Writ of Mandamus declaring the

action of the first respondent in not referring the dispute under Section 30 of the Land Acquisition Act, 1894 (for short 'the Act') as illegal and for consequential direction to refer the matter to Civil Court. They also seek declaration that the action of the first respondent in seeking to make payments to the landowners is illegal and arbitrary. It is the case of the PACSs that all the landowners, who are the respondents, have availed farm loans duly mortgaging the land owned by them to secure debt and that as per Section 73 (2) of the Transfer of Property Act, 1854 when the land is mortgaged, the Land Acquisition Officer has to pay the compensation to mortgagee.

This Court admitted the writ petitions on 26-12-2002 and on 23-1-2003 passed interim order in WPMP No.32241 of 2002 directing respondents 1 and 2 not to release any amount to the landowners. The State Bank of Hyderabad, which was allegedly having the amounts deposited by the Land Acquisition Officer, has now come forward with applications for vacating the interim order contending that in the absence of proper particulars being given in respect of the landowners, it is not possible to strictly comply with the orders of this court. Be that as it is, when the matter was heard at that stage, the learned Assistant Government Pleader for Revenue (LA) brought to my notice – counter affidavit is filed in W.P.No.25531 of 2002 to that effect; that the first respondent has not passed any orders and the land acquisition proceedings are at the stage of holding enquiry. Therefore, this court holds that the writ petition is filed on a mere apprehension by the PACSs and Adilabad DCCB without first approaching the first respondent. If the PACSs hold valid mortgage as on the date of issue of notification under Section 4(1) of the Act, it shall be open to the respective primary societies to approach the Land Acquisition Officer, Nirmal claiming their rights. If the amounts claimed by the petitioner societies are disputed by the landowners, the matter may be referred to the Civil Court for orders under Section 30 of the Act. In these writ petitions no relief, as prayed, can be granted.

The writ petition, with the above observations, are accordingly disposed of. No costs.

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V.V.S. RAO, J.

26th August, 2004

Js

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. Land Acquisition Officer/Revenue Divisional Officer, Nirmal, Adilabad District.

2. State Bank of Hyderabad, Bhainsa Branch, Mahatma Gandhi Gunj, Market Yards, Bhainsa, Adilabad District.

3. 2 CCs to G.P. for Land Acquisition, High court Buildings, Hyderabad. (OUT)

4. 2 CD copies.